

Orlando Sentinel

Home > Your Local News > Opinion

My Word: Bill Shields Design Pros

By Steven B. Lesser
May 16, 2010



For most individuals and families, the largest single investment they will ever make is a home. This investment begins with the selection and purchase of property and can include upgrades, expansions and modifications made over many years. That is why it is critical that a bill on Gov. Charlie Crist's desk not become law.

On April 28, Senate Bill 1964 passed in the Florida House and was sent to the governor. SB 1964 grants unique privileges to architects, property inspectors, engineers, interior designers and related professionals by removing consumers' rights to sue these professionals for their mistakes.

An error in design can be devastating to homeowners who rely on architects and engineers to safely design their homes and improve their properties. But SB 1964 would remove the recourse consumers have to sue for damages. Other professionals cannot limit their professional duty of care. That is why shifting the burden of design error from the design professional to the contractor, developer and/or owner makes no sense.

In an attempt to placate consumers, the legislation allows recovery of economic damages but only up to the amount of the professional liability insurance coverage that is required by the contract. This is an empty gesture for two reasons. First, Florida does not require a design professional to carry this

insurance. Second, there is no incentive for a design professional to obtain this insurance. As long as the design professional is not obligated to purchase the insurance, he or she is shielded from liability for the cost to correct construction defects.

One amendment to this legislation sought to require that all contracts include a conspicuous statement that there is no insurance or a limit of insurance to alert the consumer of the risk to be assumed, but the legislature rejected it. Ask yourself why, and you will quickly understand how the special interests of a few are favored over all other consumers.

Finally, the mischief created by SB 1964 seeks to unravel a decade of case law, including a decision from the Florida Supreme Court that permits consumers to recover economic damages from design professionals when they make mistakes. What is wrong with laws that hold professionals accountable for what they do or do not do?

SB 1964 would leave consumers, contractors, local governments, developers and all others who rely on the work of design professionals without any legal recourse to recover their economic losses. Crist can serve the interests of Floridians by applying his veto pen to SB 1964.

Steven B. Lesser is a board-certified construction attorney and chair of the Construction Law Practice of Becker & Poliakoff P.A. in Fort Lauderdale. He can be reached at slesser@becker-poliakoff.com